

Town of Lovettsville

PUBLIC HEARING

TO: Mayor and Town Council

FROM: Stephen E. McGregor, Zoning Administrator

DATE: May 13, 2010

SUBJECT: LVZA 2010-0002/LVSA 2010-0001 Fee Amounts in the Zoning and Subdivision Ordinances – Zoning and Subdivision Ordinance Amendment

PURPOSE: To provide a report on the desirability of eliminating the dollar amount of fees charged for various types of permit applications that is shown in the Zoning and Subdivision Ordinances; and to provide recommendations for the ordinance amendments.

BACKGROUND: On October 22, 2009 the Town Council directed staff and the Zoning Administrator to prepare a combined Zoning and Subdivision Ordinance amendment item to consider and make recommendations to the Council based upon their conclusion that specific dollar amounts for fees should be omitted from the ordinances. Specific fee dollar amounts are found in Article 11 Fees in the Zoning Ordinance; and in Article VI Administration and Enforcement, Sec. 6.4.11 Service Fees of the Subdivision Ordinance. The types of application that have specific fee dollar amount in the Zoning Ordinance are for a major improvement, a minor improvement, a conditional use permit, a zoning map amendment (referred to as a zoning concept plan or, commonly, as a "rezoning"), a sign, a building location permit, a zoning certificate for conversion of use, a home occupation business, and a variance requiring a public hearing. The types of application that have specific fee dollar amount in the Subdivision Ordinance are for a preliminary [subdivision] plat, a final [subdivision] plat, a boundary line adjustment, a minor subdivision, a preliminary site plan, a final site plan, a construction plan, a preliminary/final site plan, an inspection, a phasing plan, a bond reduction, a bond release, a variation, and a Street conveyance [into the public street system].

Both ordinances require that additional fees be paid for the specific dollar amounts billed to the Town for the review of applications by the Town Engineer, the Town Attorney, the Town Zoning Administrator (after two hours of review time for certain types of permit applications). These fees are collected separately from an application fee.

DISCUSSION: When specific dollar amounts for development fees are listed in the Zoning and Subdivision Ordinances it requires an ordinance amendment when the Town fee schedule changes. Specific dollar amounts are considered and established annually in the budget and advertised in accordance with the requirements of Va. Code Section 15.2-107 as applicable. Therefore, it is only necessary to refer to the current fee schedule in the ordinances instead of amending the ordinances every time the specific fee dollar amount is changed. Many other

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Northern Virginia jurisdictions, including the Town of Purcellville, require fees as a general provision in their ordinances for development related applications and reference the jurisdiction's fee schedule for the specific dollar amount.

Removing specific dollar amounts for different types of applications from the ordinance does not change the Town's requirement that an applicant is responsible for other fees, such as those paid for the Town Attorney, Town Engineer or Town Zoning Administrator services. This requirement is not affected by the changes discussed above for application fees.

It would provide more uniformity if the titles of the sections on fees in both ordinances use the same terminology.

PLANNING COMMISSION RECOMMENDATION: On April 7 the Planning Commission held a public hearing. There were no speakers and the Commission did not raise any issues. The Commission made a positive recommendation for the draft amendments provided in the staff report.

CONCLUSION: It is more efficient for the Town to remove specific dollar amounts for fees from the ordinances and refer to the Town's Schedule of Fees. Therefore, the Town ordinances should be so amended, as recommended by the Planning Commission, as shown below.

RECOMMENDATION: The Zoning Ordinance and Subdivision Ordinance should omit dollar amounts for applications and permits. Instead, the ordinances should refer to the Town's approved Schedule of Fees.

MODIFY: On page 11-1 of the Zoning Ordinance, Article 11 FEES, to read:

(a) Reasonable fees may be charged to applicants sufficient to cover the costs of administration, inspection, publication of notice and similar matters for such permits as required for building location, major and minor improvements, signs, conditional use permits, zoning amendments (zoning map amendments, zoning concept plans), variances requiring a public hearing and home occupation permits. The amount of the fees charged shall be established by ordinance of the Town Council and known as the Schedule of Fees, which shall be filed with the Town Clerk.

(b) Fees shall be tendered with submission of a signed application or notice of appeal.

~~(a) For construction of major improvements as defined in section 10-4(d), the fee for filing the zoning permit shall be \$150.00.~~

~~(b) For construction of minor improvements as defined in section 10-4(d), the fee for filing the zoning permit shall be \$75.00.~~

- ~~(c) For Conditional Use Permit, the fee for filing the application shall be \$350.00.~~
- ~~(d) For Zoning Map Amendments, the fee for filing the application shall be \$500 for the first acre acres plus \$250 per acre for each additional acre.~~
- ~~(e) Review fees for all applications shall be imposed at cost to cover the Town's cost of legal, engineering and planning consulting fees, as applicable. Two (2) hours of Zoning Administrator review time is included with all Major and Minor Zoning Permit, Sign Permit, Home Occupation Permit and Zoning Certificate application fees.~~
- ~~(f) Applications for Sign Permits shall be filed on a form provided by the Zoning Administrator and shall contain information required herein and shall be accompanied by a fee of \$75.00 for approval of up to three signs.~~
- ~~(g) A new Zoning Certificate shall be secured from the Zoning Administrator prior to the reoccupation or reuse of any lot, building or structure in previously established use when such reoccupation or reuse is of a different character or type than that of the previously established use. The Zoning Certificate shall state that the extent and kind of use proposed to be made of the lot building or structure conforms to the provisions of this Ordinance. Each request shall be accompanied by a fee of \$20.00.~~
- ~~(h) The application fee for Home Occupation shall be \$50.00.~~
- ~~(i) Applications for a variance or an appeal, requiring an advertised, public hearing, shall be accompanied by a certified check for one hundred dollars (\$100.00) payable to the Treasurer of Lovettsville, Virginia.~~

11-2 ADOPTION OF FEES

All fees shall be adopted on an annual basis by the Town Council in conjunction with the annual budget process.

MODIFY: On page 43 of the Subdivision Ordinance, Section 6.4.11 Service Fees, to read:

"6.4.11 SERVICE FEES

Applicants may be charged fees sufficient to recover incurred costs for the review of applications for a preliminary subdivision plat; a final subdivision plan; a boundary line adjustment; a minor subdivision; a preliminary site plan, a final site plan; a set of construction drawings; a preliminary/final site plan; an inspection; a phasing plan; a bond reduction; a bond release; and a variation. A Schedule of Fees applicable to such reviews, may be adopted in accordance with the provisions of § 15.2-107, Code of Virginia, 1950 (as amended).

~~The following nonrefundable application and review fees are hereby established:~~

- (a) ~~Preliminary Plat: \$300 + \$15 per lot~~
- (b) ~~Final Plat: \$500 + \$25 per lot~~
- (c) ~~Boundary Line Adjustment: \$150~~
- (d) ~~Minor Subdivision: \$300 + \$15 per lot~~
- (e) ~~Preliminary Site Plan: \$1,000 + \$50 per acre~~
- (f) ~~Final Site Plan: \$1,000 + \$50 per acre~~
- (g) ~~Construction Plan: \$1,000 + \$25 per lot~~
- (h) ~~Preliminary/Final Site Plan: \$1,000 + \$50 per acre~~
- (i) ~~Inspections: \$75 per visit~~
- (j) ~~Phasing Plan: \$300~~
- (k) ~~Bond Reduction: \$100 per reduction~~
- (l) ~~Bond Release: \$150~~
- (m) ~~Variation Request: \$100 per section varied~~
- (n) ~~Revisions: Actual staff & Admin costs~~
- (o) ~~Street Conveyance: \$150~~

DRAFT MOTION: "I move that the Town Council pass the attached resolution approving the recommended ordinance text amendments presented in the May 6, 2010 memorandum for item LVZA 2010-0002 Fees."

ATTACHMENT: Draft resolution to approve LVZA 2010-0002 Fees, Elizabeth Whiting, Town Attorney, May 6, 2010.

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DRAFT

Ordinance No. 2010-XX-XX:

**APPROVE LVZA 2010-0002 AMENDING LOVETTSVILLE
ZONING ORDINANCE SECTION 11-1 FEES and LVSA 2010-0001
LOVETTSVILLE SUBDIVISION ORDINANCE SECTION 6.4.11
SERVICE FEES**

MOTION:

SECOND:

WHEREAS, the Town Council referred text amendments to the Lovettsville Zoning and Subdivision ordinances to substitute schedules of fees to be incorporated by reference into each ordinance to the Planning Commission for its review and recommendation; and

WHEREAS, the Lovettsville Planning Commission conducted a public hearing on the proposed amendments April 5, 2010, pursuant to notice given in accordance with the requirements of Va. Code section 15.2-2204; and

WHEREAS, the Planning Commission recommended approval of the text amendments to Section 11-1 of the Zoning Ordinance and Section 6.4.11 of the Subdivision Ordinance; and

WHEREAS, following a public hearing on May 13, 2010, advertised in accordance with the aforesaid code provision, the Town Council has determined that the proposed amendments are consistent with good zoning practice and that the health, safety and welfare of the Town and its citizens will be promoted by adoption of the text revisions.

NOW, THEREFORE, BE IT ORDAINED by the Lovettsville Town Council that section 11-1 of the Zoning Ordinance and section 6.4.11 be repealed and reenacted as set forth in the text attached hereto.

VOTE:

Ayes:

Nays:

Abstentions:

Absent for vote:

APPROVED May __, 2010

Elaine Walker, Mayor

Judy L. Kromholz, Town Clerk

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Zoning Ordinance, Article 11 FEES, to read:

11-1 FEES

~~Fees and charges to be paid to the Town of Lovettsville upon application shall be as follows:~~

- ~~(a) For construction of major improvements as defined in section 9-4(d), the fee for filing the zoning permit shall be \$100.00.~~
- ~~(b) For construction of minor improvements as defined in section 9-4(d), the fee for filing the zoning permit shall be \$50.00.~~
- ~~(c) For Conditional Use Permit, the fee for filing the application shall be \$350.00. This application fee shall include all advertising costs.~~
- ~~(d) For Zoning Map Amendments, the fee for filing the application shall be \$5,000 for the first ten (10) acres plus \$500 per acre for each additional acre. This application fee shall include all advertising costs.~~
- ~~(e) Review fees for all applications shall be imposed at cost to cover the Town's cost of legal, engineering and planning consulting fees, as applicable.~~
- ~~(a) Applications for Sign Permits shall be filed on a form provided by the Zoning Administrator and shall contain information required herein and shall be accompanied by a fee of \$25.00. The fee for a temporary sign of any size is \$10.00.~~
- ~~(g) A new Zoning Certificate shall be secured from the Zoning Administrator prior to the reoccupation or reuse of any lot, building or structure in previously established use when such reoccupation or reuse is of a different character or type than that of the previously established use. The Zoning Certificate shall state that the extent and kind of use proposed to be made of the lot building or structure conforms to the provisions of this Ordinance. Each request shall be accompanied by a fee of \$20.00.~~
- ~~(h) The application fee for Home Occupation shall be \$20.00.~~
- ~~(i) Applications for a variance or an appeal, requiring an advertised, public hearing, shall be accompanied by a certified check for one hundred dollars (\$100.00) payable to the Treasurer of Lovettsville, Virginia.~~

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building location, major and minor improvements, signs, conditional use permits, zoning amendments (zoning map amendments, zoning concept plans), variances requiring a public hearing and home occupation permits. The amount of the fees charged shall be established by ordinance of the Town Council and known as the Schedule of Fees, which shall be filed with the Town Clerk.

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All fees shall be adopted on an annual basis by the Town Council in conjunction with the annual budget process.

Subdivision Ordinance, Section 6.4.11 Service Fees, to read:

6.4.11 FEES

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